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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
10

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 vs.

14 ABRAHAM AGUIRRE,

15 Defendant.
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Case No. 1:24-cr-00088-JLT

STIPULATION TO MODIFY
CONDITIONS OF PROBATION AND
DEFENDANT'S MOTION TO DISMISS
APPEAL; ORDER

JUDGE: Hon. Jennifer L. Thurston

17 IT IS HEREBY STIPULATED by and between the parties, through their respective
18 counsel, Assistant United States Attorney Chan Hee Chu, counsel for plaintiff, and Assistant
19 Federal Defender Laura Myers, counsel for defendant Abraham Aguirre, that the Court may
20 modify the conditions of Mr. Aguirre's term of probation pursuant to 18 U.S.C. § 3563(c).
21 Modification by this Court is particularly appropriate given that the appeal is pending before this
22 Court and the appeal concerns rulings by the assigned magistrate court. Specifically, the parties
23 agree that the Court may modify Condition 6 to require Mr. Aguirre to complete a three-month
24 First-Offender DUI program through the California Department of Motor Vehicles, rather than
25 the 18-month Multi-Offender DUI program. In addition, the Court may modify the relevant
26 deadlines in Condition 6 to require enrollment in the course by September 30, 2024, and
27 completion of the course by March 15, 2025. The parties further agree that the Court may add
28 Condition 8 ordering Mr. Aguirre to complete 50 hours of community service by March 15,

2026. In exchange for the government's agreement to modify the conditions of his probation, Mr. Aguirre moves to dismiss the pending appeal.

The parties request that the Court make the following findings:

(1) Pursuant to 18 U.S.C. § 3401(f) and 18 U.S.C. § 3563(c), this Court may modify Mr. Aguirre's conditions of probation;

(2) A hearing is not required under Federal Rule of Criminal Procedure 32.1(c), as Mr. Aguirre waives the hearing and, moreover, the relief sought is favorable to Mr. Aguirre, does not extend the term of probation, and counsel for the government does not object to the modification;

(3) The proposed modifications of probation are an appropriate means of dispensing with the pending appeal given the potentially colorable issues presented and in the interest of conserving the Court's limited time and resources; and

(4) The proposed modifications of probation are reasonable in light of the following circumstances:

(a) Mr. Aguirre surrendered to the U.S. Marshal on May 24, 2024, as ordered, and served the custodial portion of his sentence;

(b) Mr. Aguirre paid the \$20 special assessment prior to May 30, 2024, as ordered;

(c) California law does not require a Multi-Offender DUI course if the prior offense occurred more than 10 years ago, and Mr. Aguirre's prior convictions occurred in 1990 and 1992;

(d) The nearest DUI school to Mr. Aguirre's home in Ridgecrest is T.A.A.S.K. in Tehachapi, which is more than 70 miles away. Under the California Vehicle Code, state-certified DUI programs cannot be completed online. For each two-hour session, Mr. Aguirre, an indigent defendant, will need to rely on friends or public transportation to make the nearly three-hour round trip; and

(e) While this hardship will also exist for the three-month class, the additional

1 time and expense will be far more sustainable over a three-month period
2 than an 18-month period. Thus, the proposed modification will promote
3 Mr. Aguirre's rehabilitation by ensuring his success in the program is not
4 excessively hindered by factors beyond his control.

5 Accordingly, the parties hereby request that the Court modify Condition 6 to require
6 Mr. Aguirre to complete a three-month First-Offender DUI program through the California
7 Department of Motor Vehicles and add Condition 8 to require Mr. Aguirre to complete 50 hours
8 of community service. Mr. Aguirre hereby moves to withdraw his appeal upon the Court's
9 approval of this stipulation.

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11 Respectfully submitted,

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13 PHILLIP A. TALBERT
14 United States Attorney

15 Date: June 26, 2024

/s/ Chan Hee Chu
16 CHAN HEE CHU
17 Assistant United States Attorney
Attorney for Plaintiff

18 HEATHER E. WILLIAMS
19 Federal Defender

20 Date: June 26, 2024

/s/ Laura Myers
21 LAURA MYERS
22 Assistant Federal Defender
Attorney for Defendant
ABRAHAM AGUIRRE

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ORDER

Upon the parties' stipulation and for good cause shown, the Court hereby modifies Condition 6 to read: The defendant shall complete a three-month First-Offender DUI program through the California Department of Motor Vehicles. Enroll by: 9/30/2024. Complete by: 3/15/2025.

The Court adds Condition 8 to read: The defendant shall complete 50 hours of community service by 3/15/2026 at an organization approved by the government.

The Court grants the defendant's motion to withdraw the pending appeal.

IT IS SO ORDERED.

Dated: **June 27, 2024**


UNITED STATES DISTRICT JUDGE